



Deputation to the Waiheke Local Board and Auckland Council, 24 May 2023

Kia ora Waiheke Local Board members and Councillor Mike Lee

A. Request for regulation re priority water allocation to Waiheke residents from the aquifer supply

Summary

- Ensuring a sufficient and continuous accessible domestic supply for Waiheke residents is the legislated responsibility of Auckland Council.
- From 2014 to 2019, the fair and equitable access of Waiheke residents to a safe potable water supply during summer and autumn became increasingly eroded, due to supply being prioritised to hospitality operators and other tourism-related businesses, to the point where residents' basic health and safety in relation to sanitation were seriously compromised.
- That problem was partially mitigated by three 'Covid' summers (2020-2022) with limited tourist numbers, followed by a wet summer/autumn in 2022-2023. However tourism recovery to pre-COVID levels without a strategy or regulation for continuous access to affordable and safe water supply puts Waiheke residents at risk of poor sanitation, in breach of several UN human rights resolutions and covenants to which New Zealand is a signatory (see below).
- With a climate [forecast of dry Pacific summers for the next 3-4 years, and beyond](#), urgent local government regulation is needed to avoid future serious health and safety risks to island residents.
- ***International human rights legislation requires that Waiheke residents be allocated priority access to an accessible supply of safe water through regulation.***

Request

Project Forever Waiheke requests that the Waiheke Local Board and Councillor Mike Lee make a formal submission to Auckland Council and the Local Government Commission that regulation be introduced, as a matter of urgency, to ensure that Waiheke Island residents are guaranteed fair and equitable access to an adequate supply of safe potable water year-round. Such regulation is required under New Zealand's legal obligations to United Nations (UN) declarations, resolutions and covenants to which NZ is a signatory.

B. How tourism causes water shortage issues affecting Waiheke residents

1. During Waiheke's typical 5-6 month summer/autumn droughts, the majority of residents' households, reliant on rain water, have to buy essential household water supplies from a limited number of water companies that are licensed to deliver a limited total quantity of water daily.
2. Prior to overtourism on the island, water supply was made sufficient by a Waiheke culture of water conservation and sharing: priority was given by the water companies to young families; locals took pride in various ways of minimising water use, such as taking a 'Waiheke shower' and reusing household water to keep nearby trees alive; only flushing for poo; and educating visitors about water conservation.
3. As tourism and its associated water consumption burgeoned, from around 2014, and without any regulation requiring priority supply to residents' households, water companies have been free to prioritise contracted supply, on a weekly or even daily delivery basis, to hospitality

operators during the very period when water from the aquifers is most needed by residents. By their own admission (see [PFW's 2021 resident survey report](#), p. 31-32), those water companies have typically prioritised those contracts over household supply, for reasons of economic business advantage and year-round business sustainability.

4. Water conservation promotion to tourism operators has had limited uptake; holidaymakers are commonly not educated, incentivised or motivated to limit their holiday water use; and itinerant hospitality workers can squander water through a lack of awareness of the water supply constraint when their work supply is renewed weekly or even daily.
5. In several summers before the COVID19 pandemic limited visitor numbers, wait times for a delivery to households that had run out of water was commonly 12 weeks, sometimes more.
6. In response, the [Waiheke Local Board resorted in 2017](#) to advising families to take their children to the free local (cold) beach showers.
7. In 2020 the [Waiheke Local Board also set up an emergency water supply service](#) where locals, often people on lower incomes, could take their own containers for a fill of up to 20 litres per day. However that quantity is not sufficient to flush a toilet more than 2-3 times per day, and the option of using public toilets was not possible, due significantly to a chronic lack of those on Waiheke.
8. Opportunistic unlicensed scalpers began selling small emergency water loads at inflated prices to desperate families, and the queues for emergency water resembled Third World images - on an island that had become internationally famous for celebrities being helicoptered in to 5-star accommodation to sip iced cocktails in infinity swimming pools.
9. Tourism recovery post-pandemic has been rapid on Waiheke. The failure of Auckland Unlimited to produce a draft destination management plan for Waiheke, the generalised unwillingness of central and local governments in NZ to place reasonable limits on tourism numbers, and the unmanaged ferry queues (and corollary issues with residents being unable to secure priority passage) in summer 2022-2023, make up convincing evidence that constraints on Waiheke's summer/autumn water supply will recur in the next dry summer, and in future such years.
10. Climate change will have a varied impact on water availability, and in small communities reliant on rainwater it is anticipated generally to exacerbate any existing supply issues ([Intergovernmental Panel on Climate Change, 2007](#)). Accordingly permanent solutions are needed to protect residents' rights to safe and sufficient water supply.
11. ***Regulation is essential to ensure provision of an adequate and accessible supply of safe potable water to Waiheke households.***

C. Tourism impacts on essential water supply to 'destination' communities and residents

The excerpts in this section are taken from academic research articles published in refereed journals and reports by NGOs funded by governments. They summarise the repeated finding of rigorous research which confirms internationally the overconsumption of water resources in popular tourism destinations.

12. Studies have highlighted how small islands are especially susceptible to degradation from overtourism, due to being "characterized by their remoteness, small size, insularity, environmental fragility, and shortage of resources (water, energy) that make them very vulnerable to natural phenomena, globalization, and the impact of tourism on their ecosystems" (see [González-Morales et al., 2016](#), p. 561).

13. "In many destinations, tourists compete with locals for water, and the tourists' per capita water use far exceeds that of local people, in some cases infringing on their human right to water" (Tourism Concern, 2011; cited in [Cole, 2014](#)¹, p. 89).
14. "The per capita use of water by tourists far exceeds that of locals", including in developed countries such as Australia (Cruse et al., 2010; De Stefano, 2004; cited in Cole, 2014, p. 90).
15. Cole (2014), reviewing the impacts of overtourism on local communities, noted that "it is often the case that 'the rights of local people take second place to the needs and expectations of foreign tourists and the profits of the Trans National Corporations'" (Mowforth, Charlton, & Munt, 2008²; cited in [Cole, 2014](#)³, p. 89).

D. Providing a safe water supply as a basic human right is the responsibility of both governments and businesses

The information in this section is taken from (i) academic research articles published in refereed journals and (ii) UN Declarations and Covenants to which NZ is a signatory.

Governments' obligations

16. In July 2010, the UN General Assembly adopted a resolution that "recognised the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights" (A/RES/64/292 of 28 July 2010).
17. The subsequent adoption of the General Assembly resolution by the UN Human Rights Council, in Resolution A/HRC/15/L.14 (2010), affirmed that the "human right to safe drinking water and sanitation is derived from the right to an adequate standard of living". This resolution re-affirmed that the rights to water and sanitation are implicitly contained in several human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR, to which NZ is a signatory, 1978), and the UN Convention on the Rights of the Child (CRC, which NZ has ratified, 1993) *and are therefore legally binding rights*.
18. Referring to the General Assembly resolution, the Human Rights Council Resolution *specifies that "the right to water and sanitation is legally binding. This resolution will strengthen the ability of persons denied their rights to water and sanitation to hold governments to account"* ([Amnesty International Public Statement AI Index: IOR 40/018/2010 1 October 2010](#). United Nations: Historic re-affirmation that rights to water and sanitation are legally binding).
19. Resolution A/HRC/15/L.14 determined that, in order for the right to water to be fulfilled, supply has to be:
 - sufficient (the World Health Organisation suggests this means between 50 and 100 litres per person per day);
 - safe (free from micro-organisms or other hazards);
 - physically accessible (it should be within 1,000 m, and collection time should not exceed 30 minutes);
 - affordable (water costs should not exceed 3% of the household income); and
 - the entitlements to water include the right to a system of water supply and management that provides equality of opportunity for all people (sic; referring to 'domestic' supply) to enjoy the right to water.

¹ Cole, S. (2014). Tourism and water: from stakeholders to rights holders, and what tourism businesses need to do. *Journal of Sustainable Tourism*, 22(1), 89-106.

<https://www.tandfonline.com/doi/abs/10.1080/09669582.2013.776062>

² Mowforth, M., Charlton, C., & Munt, I. (2008). *Tourism and responsibility: Perspectives from Latin America and the Caribbean*. Taylor & Francis.

³ Cole, S. (2014). Tourism and water: from stakeholders to rights holders, and what tourism businesses need to do. *Journal of Sustainable Tourism*, 22(1), 89-106.

<https://www.tandfonline.com/doi/abs/10.1080/09669582.2013.776062>

20. In 2010, Amnesty International called on all countries to “publicly recognise and implement the rights to water and sanitation [and] *to ensure that the rights to water and sanitation are fully reflected in their laws, policies and practise (sic)*”.
21. The NZ Human Rights Commission published a report in 2012 - [Human Rights and Water. Tika Tangata me te Wai](#) - which clarifies the obligations of the relevant NZ government authorities, under their UN obligations, to provide for the following rights of NZ citizens and permanent residents (pp. 8-12):
- a. “The right to water is ... legally binding on States that have ratified the ICESCR” (p. 8).
 - b. “The **human rights to water and sanitation only include personal and domestic uses** (drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene)” (p. 8); that is, they do not apply to the needs of visitors to a place who are not relying on a domestic residence.
 - c. “Human rights require the **prioritization of water for basic personal and domestic uses before other uses, and this is particularly relevant in cases where water availability is low**” (p. 8).
 - d. “*Availability: Water for domestic purposes [italics added]:*
 - i. The *water supply for each person must be sufficient for personal and domestic uses*. In determining what is sufficient, a human rights perspective goes beyond minimum targets such as 20 litres of water per person per day as referred to in the guidance in the UN millennium development goal indicators, which is considered by the World Health Organization to be insufficient to ensure health and hygiene.⁴
 - ii. *Water must be continuously available in a sufficient quantity for meeting personal and domestic requirements of drinking and personal hygiene* as well as further personal and domestic uses such as cooking and food preparation, dish and laundry washing and cleaning. Individual requirements for water consumption vary, for instance due to the level of activity, personal and health conditions or climatic and geographic conditions.⁵
 - iii. The *supply of water has to be continuous* enough to allow for the collection of sufficient amounts to satisfy all needs, without compromising the quality of the water.⁶
 - iv. [Since] most households are dependent on the local council providing the infrastructure necessary to supply their domestic needs... Failure to protect water bodies from degradation to the point where they are not suitable for domestic use means that both the availability and the quality criteria have not been met.”
 - e. The exempt ‘non-domestic’ users are primarily essential agriculture and electricity generation; they do not include tourism and hospitality operations, except where people are accommodated overnight and completely reliant on that water supply.

⁴ UN General Assembly (2010) *Report of the Independent Expert on the Issue of Human Rights Obligations Related to Safe Drinking Water and Sanitation on the Millennium Development Goals*. para 24 a/65/254 6 august 2010. <http://www2.ohchr.org/english/issues/water/iexpert/docs/mdgreporta6524.pdf> accessed 20 January 2011.

⁵ Independent Expert On The Issue Of Human Rights Obligations Related To Access To Safe Drinking Water And Sanitation (2010) *Good Practices Questionnaire* <http://www2.ohchr.org/english/issues/water/iexpert/index.htm> accessed 20 January 2011.

⁶ UN General Assembly (2010) *Progress report of the Independent Expert on the Issue of Human Rights Obligations Related to Safe Drinking Water and Sanitation Progress on the compilation of good practices*, para 19. a/HRC/15/31/add.1. 1 July 2010. http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/a.hrC.15.31.add.1_en.pdf accessed 17 May 2011.

22. In its report - [Water Equity in Tourism: A Human Right – A Global Responsibility](#) - Tourism Concern (2012) highlighted the increasing negative impacts of tourism on essential water supply for local communities. While their focus was on tourism impacts in developing countries turning to tourism as a major income stream, their arguments - that essential water supply to local communities and residents must take priority over supply to tourists - apply equally to communities in NZ that rely on rainwater. The report set out ‘Nine Principles of Water Equity in Tourism’, in particular that “governments should not allow water and sanitation rights to be compromised by tourism. *Clear regulatory frameworks for tourism and water resource management, which are based upon integrated and participatory planning, should be established and enforced in this regard*” (p. 2).

Obligations of businesses

23. In the past decade, tourism scholars have begun highlighting the responsibility of tourism businesses to “add human rights impact assessments [to business operations] in order to fulfil their environmental, social and risk assessments and fulfil their business responsibility to respect human rights”, in particular the right to water (Cole, 2014, p. 89).
24. In June 2011, the United Nations endorsed the [Guiding Principles on Business and Human Rights](#). This endorsement means that “all businesses have a corporate responsibility to respect human rights, including the right to water” (Cole, 2014, p. 93).
25. It is beyond the intent or scope of this deputation to address the responsibilities of tourism and tourism-related businesses on Waiheke to protect the right to water of the local community. However, we do highlight that the *UN Guiding Principles on Business and Human Rights* create ***an obligation by the Waiheke water supply companies to prioritise essential supply to Waiheke households.***
26. Taking a lead in NZ in this regard, the [Tourism Chatham Islands Destination Management Plan 2022-2025](#) highlights both (i) the need for visitor and tourism operator education for water supply conservation, *and* (ii) the responsibility of the Chatham Islands Council to ensure a sufficient domestic supply.

E. Determining an implementation system for priority domestic water supply

27. Determining the logistical detail for implementation of a system for priority domestic water supply is the responsibility of Auckland Council. However it will be essential that Council consult with the water supply companies and the Waiheke Local Board to develop systems that are simple to implement.
28. Key implementation aspects will include:
- A system for the water companies to identify domestic versus commercial premises; that might be achieved by each water company’s online booking system requiring a Council rates reference number that identifies whether the address pays residential or commercial rates
 - A total annual allocation requirement for domestic supply, calculated on the basis of (i) the ‘permanent’ Waiheke population, from the most recent census, and (ii) the WHO recommendation of 50 litres per person per day for domestic supply
 - An allocation requirement for each water company, based on its licence.

We would appreciate an early submission by the Waiheke Local Board to Auckland Council, so that regulation can be in place prior to the end of 2023.

Pam Oliver and Peter Wills, for the Project Forever Waiheke Working Group
18 May 2023